

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

LUTHER JOHNSON,

Plaintiff

VS.

SHELLIDA SIMMONS, *et al.*,

Defendants

NO. 5:06-CV-412 (CAR)

PROCEEDINGS UNDER 42 U.S.C. §1983
BEFORE THE U. S. MAGISTRATE JUDGE

ORDER

Plaintiff LUTHER JOHNSON herein has requested this court to provide legal representation for him in the above-captioned proceeding (Tab #26). Plaintiff's request is premature. Until a response has been filed on behalf of the defendants and the court has a chance to review that response, the circumstances of this case cannot be properly evaluated.

Generally speaking, no right to counsel exists in §1983 actions. *Wahl v. McIver*, 773 F.2d 1169, 1174 (11th Cir. 1985); *Hardwick v. Ault*, 517 F.2d 295, 298 (5th Cir. 1975); *Meckdeci v. Merrell National Laboratories*, 711 F.2d 1510, 1522 n. 19 (11th Cir. 1983). It is a privilege that is only justified by exceptional circumstances. *Fowler v. Jones*, 899 F.2d 1088, 1096 (11th Cir. 1990). Therefore, after receiving the response(s), the court on its own motion will consider assisting plaintiff in securing legal counsel if and when it becomes apparent that legal assistance is required to avoid prejudice to his rights. Accordingly, Plaintiff's motion for appointment of legal counsel (Tab #26) is **DENIED** at this time.

Additionally, Plaintiff has filed a "MOTION FOR SUBPOENA THE INCIDENT ON TAPE FROM OCTOBER 10 TO OCTOBER 16 AS EVIDENCE IN H-HOUSE." Tab #25. That motion consists entirely of its heading; there is no body of text. Liberally construing that motion as one for discovery, the court notes that discovery in this case has not begun and will not begin until an answer or dispositive motion is filed. *See* Tab #10. Accordingly, the motion is **DENIED**.

Plaintiff is reminded that discovery is not filed through the court unless and until a party has requested discovery and made a good faith effort to obtain it without court assistance. *See* Local Rule 37.

SO ORDERED, this 18th day of APRIL, 2006.



A handwritten signature in blue ink, reading "Claude W. Hicks, Jr." in a cursive script.

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE